

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,) CASE NO. 4:04 CR 555
)
Plaintiff,)
)
vs.) Judge Peter C. Economus
)
GARY DANIELS,)
)
Defendant.) ORDER

On November 1, 2005, the Defendant, Gary Daniels, was sentenced to sixty-three (63) months imprisonment, followed by four (4) years of supervised release, for Conspiracy to Distribute Cocaine, a Class A Felony. His supervised release commenced on July 10, 2009.

On or about January 15, 2010, the U.S. Pretrial Services and Probation Office submitted a violation report alleging the following violations of the terms of supervised release:

1. **Unauthorized Use of Drugs** - On 12/4/2009, Mr. Daniels' urine specimen tested positive for marijuana.

The matter was referred to Magistrate Judge George J. Limbert to conduct the appropriate procedures and supervised release revocation hearing, if necessary. A summons was issued and a supervised release violation hearing was scheduled for February 2, 2010.

The Defendant appeared before the Magistrate Judge for a violation hearing on February 2, 2010, and was represented by appointed counsel Damian Billak. The Defendant admitted to the violations as charged in the January 15, 2010 report. The Magistrate Judge has issued a report and recommendation, recommending that this Court find that the Defendant has violated standard and special conditions of his supervised release.

The Court has reviewed the Magistrate's report and recommendation and finds that it is well-supported. The Defendant has admitted violation one (1) as charged in the Probation Office's January 15, 2010, violation report. As a result, the Court finds that the Defendant has violated the terms of his supervised release.

The Court has considered the statutory maximum sentence of five years pursuant to 18 U.S.C. § 3583(e)(3). The Court has also considered the advisory policy statements set forth in Chapter Seven of the United States Sentencing Guidelines prior to imposing sentence. The guideline range is 5-11 months pursuant to U.S.S.G. § 7B1.4(a). Furthermore, the Court has considered the factors for sentencing listed in 18 U.S.C. § 3553(a) and 3583(d).

The Court hereby **ADOPTS** the Magistrate's Report and Recommendation. (Dkt. # 107). Based on this Court's review of all relevant factors, the Court hereby orders that the Defendant's supervised release is **REVOKED**, and the Defendant is committed to the custody of the Bureau of Prisons for six (6) months. The sentence shall be held in abeyance until August 26, 2010, at 10:30 a.m., when the Court will determine whether or not to implement the sentence imposed.

IT IS SO ORDERED.

Issued: February 26, 2010

s/ Peter C. Economus
PETER C. ECONOMUS
UNITED STATES DISTRICT JUDGE